

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TOLEDO MACK SALES & SERVICE, INC.,	:	Civil Action No. 2:02-CV-04373-RLB
	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
MACK TRUCKS, INC.	:	
	:	
Defendant.	:	
	:	
MACK TRUCKS, INC.,	:	
	:	
Counterclaim Plaintiff,	:	
	:	
v.	:	
	:	
TOLEDO MACK SALES & SERVICE, INC.	:	
	:	
Counterclaim Defendant.	:	

ORDER

And now, on this ____ day of _____, 2007, upon consideration of Mack Trucks, Inc.'s Motion for Leave To Register the Judgment of This Court in the Northern District of Ohio, and any opposition thereto, it is hereby

ORDERED that, for good cause shown, pursuant to 28 U.S.C. § 1963, Mack Trucks, Inc. is permitted to register the Judgment from this case with the Clerk of the Court for the United States District Court for the Northern District of Ohio and any other United States District Court.

By: _____
Buckwalter, R., U.S.D.J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TOLEDO MACK SALES &
SERVICE, INC.,

Plaintiff,

v.

MACK TRUCKS, INC.

Defendant.

Civil Action No. 2:02-CV-04373-RLB

MACK TRUCKS, INC.,

Counterclaim
Plaintiff,

v.

TOLEDO MACK SALES & SERVICE,
INC.,

Counterclaim
Defendant.

**DEFENDANT/COUNTERCLAIM PLAINTIFF MACK TRUCKS, INC.'S MOTION FOR
LEAVE TO REGISTER THE JUDGMENT OF THIS COURT IN THE NORTHERN
DISTRICT OF OHIO**

Pursuant to 28 U.S.C. § 1963 and for the reasons set forth in the accompanying
Memorandum of Law, Defendant/Counterclaim Plaintiff Mack Trucks, Inc. respectfully moves

this Court for an Order pursuant to 28 U.S.C. § 1963 allowing Mack to register the judgment entered by this Court with the United States District Court for the Northern District of Ohio.

Respectfully submitted,

/s/ Jeremy Heep

Barbara W. Mather

Jeremy Heep

Barak A. Bassman

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3000 Two Logan Square

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(215) 981-4000

Dated: January 8, 2007

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TOLEDO MACK SALES & SERVICE, INC.,	:	Civil Action No. 2:02-CV-04373-RLB
	:	
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Plaintiff,	:	
	:	
v.	:	
	:	
MACK TRUCKS, INC.	:	
	:	
Defendant.	:	
	:	
MACK TRUCKS, INC.,	:	
	:	
Counterclaim Plaintiff,	:	
	:	
v.	:	
	:	
TOLEDO MACK SALES & SERVICE, INC.	:	
	:	
Counterclaim Defendant.	:	

**DEFENDANT MACK TRUCKS, INC.’S MEMORANDUM OF LAW IN SUPPORT OF
ITS MOTION FOR LEAVE TO REGISTER THE JUDGMENT OF THIS COURT IN
THE NORTHERN DISTRICT OF OHIO**

Defendant/counterclaim plaintiff Mack Trucks, Inc. (“Mack”) requests that this Court enter an Order pursuant to 28 U.S.C. § 1963 allowing Mack to register the judgment entered by this Court with the United States District Court for the Northern District of Ohio.

On November 22, 2006, this Court entered an order that conditioned any stay of execution of the judgment on Plaintiff/counterclaim defendant Toledo Mack Sales & Service, Inc. (“Toledo Mack”) post cash or a surety bond in the amount of \$1 million within fifteen days. Toledo Mack has failed to post any bond of any amount and the fifteen days have long passed.

In its motion for a stay of execution and in its motion for reconsideration of this Court's Order (a motion that was denied), Toledo Mack provided declarations and exhibits showing that all of their assets are located in or about Toledo, Ohio, which is in the Northern District of Ohio. Pursuant to 28 U.S.C. § 1963, in order for Mack to execute on the judgment in that District, it must first register the judgment with that court and this Court should allow such a registration "for good cause shown." 18 U.S.C. §1963.

"Good cause under § 1963 is satisfied by 'a mere showing that the defendant has substantial property in the other district and insufficient [property] in the rendering district to satisfy the judgment.'" *Great Am. Ins. Co. v. Stephens*, No. 04-3642, 2006 U.S. Dist. LEXIS 56470 (E.D. Pa. Aug. 11, 2006) (internal citation omitted); *see also Schreiber v. Kellogg*, 839 F. Supp. 1157, 1162 (E.D. Pa. 1993) ("The good cause requirement may be satisfied if the judgment debtor has substantial property in a foreign district and insufficient property in the rendering district to satisfy the judgment."). Here, Toledo Mack's own filings with this Court demonstrate that this low threshold is met by offering declarations describing its assets in Toledo, Ohio. In addition, Toledo Mack has further demonstrated to this Court a willingness to encumber those assets in the face of the judgment and this Court's Order regarding a bond.

Because Toledo Mack has assets in the Northern District of Ohio, has encumbered or transferred assets that would have been available to satisfy at least a portion of the judgment after this Court's Order and has not posted any bond within the period provided by this Court's Order, Mack should be permitted to execute on the judgment. Therefore, Mack

requests that pursuant to 28 U.S.C. § 1963, this Court enter an order allowing Mack to register the judgment in the Northern District of Ohio.

Respectfully submitted,

/s/ Jeremy Heep

Barbara Mather

Jeremy Heep

Christopher J. Huber

Barak A. Bassman

PEPPER HAMILTON LLP

3000 Two Logan Square

Eighteenth & Arch Streets

Philadelphia, PA 19103-2799

(215) 981-4000

Dated: January 8, 2007

Attorneys for Defendant/Counterclaim Plaintiff
Mack Trucks, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on January 8, 2007 a true and correct copy of the foregoing Motion for Leave To Register the Judgment of This Court in the Northern District of Ohio was served via hand delivery upon the following:

J. Manly Parks
Duane Morris LLP
30 South 17th Street
Philadelphia, PA 19103

/s/ Christopher J. Huber

Christopher J. Huber